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Senator Curtis S. Bramble
Representative James A. Dunnigan

To Senator Bramble, Representative Dunnigan, and the members of the Business and Labor Interim Committee.

The Workers' Compensation Advisory Council submits this report pursuant to Utah Code Ann. §34A-2-107.

Introduction

S.B. 64, passed in the 2018 legislative session, requires the Workers' Compensation Advisory Council ("Council") to study the following:

1. How to reduce hospital costs for purposes of medical benefits for workers' compensation;
2. Hospital fee schedules used in other states;
3. Hospital billing and payment trends within the state;
4. The approximate rate at which a workers' compensation insurance carrier or self-insured employer should expect to reimburse a hospital for billed hospital fees for covered medical service.

Utah Labor Commission ("Commission") and Council representatives obtained information from the Workers' Compensation Research Institute ("WCRI"), the National Council on Compensation Insurance ("NCCI"), the Utah Department of Health, and WCF Mutual Insurance Company ("WCF") to include in this report.

Prior to the passage of S.B. 64, S.B. 216 from the 2016 legislative session directed hospitals to be reimbursed by an insurance carrier at the rate of 85% of the billed charge if there was no contract between the parties which sets out an agreed upon reimbursement rate. This was effective for the time period between May 10, 2016, and July 1, 2018. Prior to S.B. 216 the Workers' Compensation Act granted the Commission exclusive jurisdiction to hear and determine the reasonableness of amounts paid to hospitals in situations where no prior contract existed between the hospital and the workers' compensation carrier.

According to NCCI, inpatient and outpatient hospital services comprise approximately 43% of workers' compensation medical payments.

1. Recommendations on how to reduce hospital costs for purposes of medical benefits for workers' compensation. Hospital fee schedules used in other states.

In addition to setting certain temporary hospital reimbursement rates, S.B. 216 required the Council to study how hospital costs could be reduced for purposes of medical benefits for workers' compensation. That report was provided to the Business and Labor Interim Committee on November 28, 2017. The section of that report dealing with specific cost saving options has been expounded upon here. This information is derived from the WCRI report titled "Hospital Outpatient Payment Index: Interstate Variations and Policy Analysis, 8th edition." This report is very comprehensive and includes information from 39 participating states.

1. Fixed-Amount Fee Schedules

a. Medicare Based

This is a system whereby states will obtain information from the federal Medicare database regarding Medicare's payments for services, then the state will add on a certain percentage, though there are some variations from state to state. The "Medicare plus a percentage" then becomes the reimbursable amount. This is the most common system used by at least 16 states including CA, CO, CT, GA, ID, IN, MA, MS, NC, SC, TN, TX, and WV.

b. Traditional Fee Schedule

This is a system developed by the state which determines what appropriate reimbursements should be for various services. This system is more involved and is required to be updated annually and is used by three states; NY, NV, and OK.

2. Percent-of-Charge

Five states, now including Utah, use a percent-of-charge type fee regulation. The state determines what percentage of billed charges will be reimbursed by the insurance carrier to the hospital. AL, LA, MN, and NE use this model.

Under S.B. 64 this is the model Utah currently uses. Specifically, hospitals located in a county of the first, second, or third class as defined in Utah Code Ann. §17-50-501 are reimbursed 75% of billed charges. If a hospital is in a county of the fourth, fifth, or sixth class they are reimbursed at 85% of billed charges.

3. Cost-to-Charge Ratio

This methodology requires the individual hospitals to provide information to the state regarding their costs, then allows the hospital to charge a certain percentage above that cost. Each hospital will receive a different reimbursement for a specific procedure, however, each will be required to bill the same percentage above the cost. Four states use this model including KY, NM, MI, and OR.

4. Use of Data Analytics Companies

This option involves the use of hospital repricing services (vendors) utilizing usual and customary payment data to create a pricing review methodology. This option was discussed by the Council but the Council is unaware of any state incorporating this method.

5. No Fee Schedule

Six states in the report do not have a hospital fee schedule including AZ, IA, MO, NJ, VA, and WI.

It should be noted that within each of the options there are several implemented variations. States may group Current Procedural Terminology (“CPT”) codes or allocate reimbursements on a per-procedure basis, use unique factors to determine hospital costs, or create differing methodologies to determine a percent-of-charge ratio.

WCRI reports that states with no fee schedules had higher hospital outpatient payments per episode compared with states with fixed-amount fee schedules – 62-148% higher on average. States with percent-of-charge based fee schedules had higher hospital outpatient payments per episode than states with fixed-amount fee schedules – 67-212% higher on average. Lastly, states with cost-to-charge ratio fee schedules had hospital outpatient payments per episode similar to states with fixed-amount fee schedules.

Each of these options provide a means by which hospital costs in workers’ compensation cases might be controlled. Most of them are utilized by other states as a means to control hospital costs. Based on the above information, a fee schedule of any type controls and reduces hospital costs more so than not having a fee schedule.

2. Hospital Billing and Payment Trends Within the State

Most Utah hospitals and insurance carriers have contracts in place which govern reimbursement rates for workers’ compensation related treatment. The non-contracted rates are currently governed by the reimbursement requirements provided for under S.B. 64. Prior to S.B. 64, S.B. 216 controlled for the time periods mentioned and before S.B.

216 “usual and customary” was the most common method used to determine reimbursement rates.

NCCI reports that hospital costs represent approximately 45% (15% inpatient/28% outpatient) of all dollars spent for medical costs within Utah’s workers’ compensation system. This compares to approximately 31% (12% inpatient/19% outpatient) countrywide. Additionally, hospital inpatient payments as a percentage of Medicare in Utah are 177% compared to 191% nationwide. Hospital outpatient payments as a percentage of Medicare in Utah are equal to countrywide payments at 256%.

According to NCCI, the number of reported transactions in Utah in 2017 was over 611,000, with more than \$140,456,400 paid for more than 47,200 claims. This represents data from approximately 95% of the workers’ compensation premium written, but does not include self-insured data.

3. The Approximate Rate at Which a Workers’ Compensation Insurance Carrier or Self-Insured Employer Should Expect to Reimburse a Hospital for Billed Hospital Fees for Covered Medical Service

In considering what workers’ compensation insurance carriers and self-insured employers should expect to reimburse hospitals for workers’ compensation related services, the Council considered several options including a review of databases managed by the Utah Department of Health. One valuable database, the Utah Open Data Catalog, tracks average hospital inpatient costs which are calculated by the Office of Healthcare Statistics using Utah’s All Payer Claims Database. Though this catalog captures all hospital inpatient procedures and costs, typical workers’ compensation procedures are included by extension. These costs are tracked using the 25th, 50th, and 75th percentiles and the data is easily extractable and searchable.

The Council believes the information contained in the Utah Open Data Catalog is neutral in nature and reflects the amount workers’ compensation insurance carriers and self-insured employers have reimbursed hospitals for the most common workers’ compensation related services. This establishes a baseline by which the Council can consider future reimbursement expectations and it intends to study options by looking at specific data examples. Outpatient reimbursement rates will need to be considered as well.

Conclusion

It should be noted that this is the first of three required yearly reports. The Council will continue to review and discuss these issues throughout the following two years and expound upon any new information that presents itself, or address any points the legislature desires.

The Council appreciates the opportunity to study this important and complicated matter. It also appreciates the opportunity to present this report and looks forward to continuing the work.

Sincerely,

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